

### **REMARKS/ARGUMENTS**

Claims 1-20 are now pending in this application. Claims 1, 8 and 14 are independent claims. Claims 1, 8, 14, 16 and 20 have been amended. Claims 7, 12, 15 and 18 have been cancelled.

#### ***Drawings***

The drawings were objected to under 37 CFR 1.83(a). (Office Action, Page 2). Claims 7, 12 and 18 have been cancelled, thereby obviating the objections under this section.

#### ***Claim Rejections – 35 USC § 103(a)***

Claims 1-5, 14-17 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gab et al., United States Patent Number: 6,058,560 (hereinafter: Gab), in view of May et al., United States Application Number: 2002/0108507 (hereinafter: May). (Office Action, Page 3). Claims 6 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gab, in view of May, and further in view of Smith, United States Patent Number: 6,088,864 (hereinafter: Smith). (Office Action, Page 4). Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gab, in view of May, and further in view of Muramatsu, Japanese Patent Number: 6-197997 (hereinafter: Muramatsu). (Office Action, Page 5). Claims 8-10 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gab, in view of May and further in view of Goss, United States Application Number: D187,348. (hereinafter: Goss). (Office Action, Page 5). Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gab, in view of May, in further view of Goss, in further view of Smith. (Office Action, Page 6). Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gab, in view of May, in view of Goss, in further view of Muramatsu. (Office Action, Page 7). Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gab, in view of May, in further view of Rood, United States Patent Number: 6,671,924. (hereinafter: Rood). (Office Action, Page 7). Applicant respectfully traverses these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (emphasis added) (MPEP § 2143). “If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious.” (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988). Applicant respectfully submits that independent Claims 1, 8 and 14 include elements that do not appear to have been disclosed by any of the references cited by the Patent Office, either alone or in combination.

Independent Claims 1, 8 and 14 of the present invention each generally recite the following:

“a gate monitoring assembly communicatively coupled to the vacuum assembly via a control assembly for causing activation of the vacuum assembly when insertion of garbage through a gate of the trash tube is detected”

The present invention implements a gate monitoring assembly for providing information to a control assembly. (Present Application, Page 7, Paragraph 0019). The gate monitoring assembly, when sensing that garbage has been inserted through a gate of the trash tube, signals the control assembly to activate/power on the vacuum assembly. (Present Application, Page 7, Paragraph 0019). Such configuration ensures that garbage gets down into and stays within the receptacle. (Present Application, Page 2, Paragraph 0004).

Based on the rationale above, Applicant contends that none of the references cited by the Patent Office against the present invention, either alone or in combination, disclose the above-referenced elements as claimed in Claims 1, 8 and 14 of the present application and therefore, the above-cited references do not preclude patentability of the present invention under 35 U.S.C. § 103(a). Applicant further contends that it would not have been obvious to one of ordinary skill in the art at the time of the present invention to combine or modify any of the above-cited references, either alone or in combination, to arrive at the present invention as claimed. As a result, a *prima facie* case of obviousness

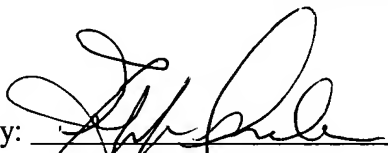
has not been established for independent Claims 1, 8 and 14. Thus, independent Claims 1, 8 and 14 are believed allowable. Further, Claims 2-6 (which depend from Claim 1), Claims 9-11 and 13 (which depend from Claim 8) and Claims 16, 17, 19 and 20 (which depend from Claim 14) are therefore allowable.

**CONCLUSION**

In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.

Respectfully submitted on behalf of

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Dated: June 12, 2006

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